



Costs Decision

Site visit made on 11 August 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2026

Costs application in relation to Appeal Ref: APP/J0350/C/25/3365957

Land at 1 Mitchell Close, Slough, SL1 9DY

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Slough Borough Council for a full award of costs against Mr M Asif.
 - The appeal was against an enforcement notice alleging without planning permission, the unauthorised material change of use of public amenity land to residential, the erection of a 1.8/2m high close boarded boundary fence, a 0.9/1m high boundary picket fence and a 1.8/2m high close boarded fence sub-dividing the land and associated hardstanding.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (PPG) appeals chapter advises that costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030).
3. Paragraph 028 of the PPG explains that the aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. At paragraph 031, the PPG advises that 'unreasonable' has its ordinary meaning, as established by the Courts.¹ It goes on to explain that unreasonable behaviour can be either procedural-relating to the process, or substantive-relating to the issues arising from the merits of the appeal.
4. The Council sought an award of its costs incurred in defending the appeal, on what I understand to be substantive grounds. The application was made in writing, in accordance with the PPG at paragraph 035. In summary, the Council consider that the appellant, who is professionally represented, failed to substantiate the appeal on ground (c) and ground (a), by largely focussing on ownership issues rather than matters related to planning.
5. The PPG in paragraph 053 explains that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them on substantive grounds if the appeal or ground of appeal had no reasonable prospect of succeeding. This includes where the development is clearly not in accordance with the Development Plan, and no other material

¹ *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774

considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. This paragraph also confirms that in enforcement appeals, the onus of proof on matters of fact rests with the appellant.

6. The appellant provided sufficiently detailed evidence to support the ground (c) appeal. The concept of a material change of use is not defined in law and is a question of fact and degree in every case. The appellant explained why they considered that no material change of use had taken place at the appeal site. There was little obvious misunderstanding of the relevant law in the appellant's position. References to land ownership are part of the context to the matter at issue. That it was necessary for me to undertake a detailed assessment to determine whether a material change of use had occurred points towards the ground (c) appeal as being not entirely without foundation. Whilst I disagreed with the appellant's assessment and conclusions on this ground of appeal, a failure to discharge the burden of proof is not, in itself, unreasonable.
7. The appellant also provided sufficiently detailed evidence to support the ground (a) appeal. The assessment of matters such as the effect of development on the character and appearance of the surrounding area often involves making judgments; therefore, whether there is conflict with the Development Plan can be open to interpretation. The appellant explained in the statement why in their view the development did not cause the planning harm identified in the notice, including by reference to an example of outwardly similar development in the vicinity. The appellant's evidence showed that on an objective analysis, it was entirely possible to reach an alternative, reasoned conclusion to the Council on the planning merits of the development. After consideration of all the available evidence, I did not support one of the reasons for issuing the notice.
8. Consequently, I cannot be certain that the appeal had little reasonable prospect of success. In my opinion, whilst ultimately the appeal was dismissed and the notice upheld, the appellant has substantiated their case in relation to both of the grounds of appeal.
9. Since the appellant has not acted in a manner similar to the examples of unreasonable behaviour relating to the substance of the matter at appeal in the PPG, or in any other way which might be so construed, the Council has not been put to unnecessary additional expense in defending the appeal. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stephen Hawkins

INSPECTOR